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COVINGTON & BURLING

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1201 PENNSYLVANIA AVENUE NW  
WASHINGTON, DC 20004-2401  
TEL 202.662.6000  
FAX 202.662.6091  
WWW.COV.COM

WASHINGTON  
NEW YORK  
LONDON  
BRUSSELS  
SAN FRANCISCO

ELLEN P. GOODMAN  
TEL 202.662.5179  
FAX 202.778.5179  
EGOODMAN@COV.COM

December 7, 2000

RECEIVED

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Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: *Ex Parte Notice*  
In the Matter of Carriage of the Transmissions  
Of Digital Television Broadcast Stations  
Amendments to Part 76 of the Commission's Rules  
CS Docket No. 98-120

Dear Ms. Roman Salas:

The Association for Maximum Service Television ("MSTV") hereby notifies the Commission that on December 5, 2000, Victor Tawil, Senior Vice President of MSTV, and Ellen Goodman, counsel for MSTV, met with David Goodfriend, legal advisor to Commissioner Ness to discuss MSTV positions, which are a matter of record in the above-captioned proceeding, on some DTV carriage issues other than must carry. Attached is a short summary of those positions, most of which are drawn from comments in the long-dormant DTV cable carriage proceeding. This document was not distributed at the meeting with Mr. Goodfriend, but is hereby submitted to refresh the record.

Please direct any questions to the undersigned.

Respectfully submitted,



Ellen P. Goodman  
*Attorney for MSTV*

cc: Chairman Kennard  
Commissioner Furchtgott-Roth  
Commissioner Ness  
Commissioner Powell  
Commissioner Tristani  
Susan Eid  
William Friedman  
David Goodfriend  
Karen Onyeije  
Helgi Walker

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## **SUMMARY OF MSTV POSITIONS ON SELECT DTV CARRIAGE ISSUES**

On the basis of the public interest goals identified in bold, MSTV urges the Commission to take the following actions to fulfill its statutory obligations to preserve the integrity and competitive viability of local television signals, to promote competition in the delivery of digital services and devices, and to speed the public's transition to DTV.

- ***Consumers should be able to access HDTV through their cable systems and boxes.*** Absent broadcaster consent, DTV signals should be carried on cable and through cable-owned or cable-provided infrastructure without material degradation (*i.e.*, cable systems should not be permitted intentionally to block or delete any of the bits comprising the free over-the-air broadcast material) so that viewers can access DTV signals in their original format.
- ***Consumers should be able to easily locate their local DTV signals and enjoy all the program information and guidance that the broadcaster conveys over-the-air.*** Cable systems should ensure that the DTV channel may be found in the same way over cable that it can over-the-air (that is, using the PSIP protocol or another navigation tool that sets recognize when receiving signals over-the-air) and that program guide material transmitted in the DTV signal can be easily accessed by the consumer.
- ***Cable systems should not be permitted to disable or discriminate against competing electronic program guides.*** The FCC should adopt a non-discrimination rule that would prevent cable systems from discriminating against competing or independent program guides carried on their systems or from favoring affiliated cable programming on their own program guides.
- ***Cable systems should not be permitted to add to or alter the display of the DTV programming.*** As part of their non-degradation obligation, cable systems should be prohibited from "framing" or otherwise distorting the content of a local broadcast signal, absent broadcaster consent.
- ***The DTV content carried on cable should include all services that are free to the viewer.*** Cable systems should be required to carry all the free over-the-air broadcast video, accompanying audio, closed-captioning, and program-related material and the FCC should simply define the category of services not entitled to carriage (ancillary and supplementary services) to mean subscription services.

- ***Consumers should have access to their local DTV signals on the lowest-priced digital tier.*** The FCC should ensure that DTV signals are carried on a tier of cable service that is reasonably priced, either on the basic service tier or on a digital basic service tier.
- ***A cable system should not be able to undermine a local station's exclusive rights to programming by carrying the programming from another station in digital format.*** The FCC should apply the network nonduplication and syndicated exclusivity rules in the digital arena so that a cable system honors the contractual terms between a station and its network or syndicator that provide for program exclusivity within a market.
- ***Broadcasters should be allowed to make different "must carry/retransmission consent" elections for their digital and analog signals, although the timing of elections should be coordinated.*** The FCC should permit licensees to make separate must carry/retransmission consent elections and coordinate the DTV election period with the analog election period so as to begin in 2000 (or whenever a station goes on the air) and run until the end of 2003.
- ***Cable systems should be put on notice now as to when, according to their carrying capacity, their DTV carriage obligations will take effect.*** Cable systems should be required to carry local DTV signals as they increase capacity, with exceptions to ensure that larger cable systems, cable systems that upgrade before all local DTV signals are on the air and cable systems that delay in upgrading carry all eligible DTV signals at a reasonable time. Even if the FCC does not now adopt a timetable for DTV carriage requirements, which MSTV believes it should do, the FCC should still now adopt a principle that carriage of DTV signals will be required during the transition.